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PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

**Telecommunications Division
Public Programs Branch**

**RESOLUTION T-17008
July 20, 2006**

R E S O L U T I O N

Resolution T-17008. Citizens Telecommunications Company of California) (U-1024-C). Request to (1) implement a permanent California High Cost Fund-B (CHCF-B) surcredit; and (2) true up of temporary catch-up CHCF-B surcredit in compliance with Decision 98-09-039.

By Advice Letter No. 722, filed October 24, 2001, and Supplement A, filed April 13, 2004.

By Advice Letter No. 732, filed November 30, 2001, and Supplements A, B, and C, filed December 10, 2001, August 1, 2002, and April 13, 2004, respectively.

SUMMARY

A. Implementation of Permanent CHCF-B Surcredit:

On October 24, 2001, Citizens Telecommunications Company of California (Citizens)¹ filed Advice Letter (AL) No. 722 to make its provisional California High Cost Fund-B (CHCF-B) surcredit permanent. This resolution approves Citizens' AL No. 722 to implement a permanent surcredit of 3.63% commencing on September 1, 2006 and thereafter. This surcredit will apply permanently on all intrastate billings, except for residential basic service, contract services, and Universal Lifeline Telephone Service (flat rate exchange service, reduced service connection charges, and mileage, if applicable) (ULTS).

B. Implementation of Catch-up CHCF-B Surcredit:

¹ Citizens Telecommunications Company of California's d/b/a/ is Frontier Communications of California.

DRAFT

On November 30, 2001, Citizens filed AL No. 732 to true-up its temporary CHCF-B catch-up surcredit for the period July 2001 through September 2001. In AL No. 732, Citizens proposes to apply a surcharge on its customers' billings to recover an overpayment to customers during this three-month temporary catch-up period. This resolution also approves a one-month surcharge of 1.94% to true-up Citizens three-month temporary catch-up surcredit to its customers for one month. The 1.94% surcharge will apply on all intrastate billings, except for residential basic service, contract services and ULTS commencing on September 1, 2006 for one month.

BACKGROUND

A. Decision (D.) 96-10-066 –Rulemaking on the Commission's Own Motion into Universal Service and to Comply with the Mandates of Assembly Bill 3643; Investigation on the Commission's Own Motion into Universal Service and to Comply with the Mandates of Assembly Bill 3643 (R.95-01-020, I.95-01-021)

In D.96-10-066, the Commission established the CHCF-B program to provide a universal service subsidy to Citizens and the other incumbent local exchange carriers (ILECs)² for providing basic local telephone service to residential customers in high-cost areas at affordable rates. The purpose of the CHCF-B program is to replace the implicit subsidies used to support universal service with an explicit funding mechanism. The CHCF-B is funded through a surcharge on all end-users of intrastate telecommunications services, except for Universal Lifeline Telephone Service (ULTS) customers, coin-sent paid calling, debit card messages, one-way paging, usage charges to COPTs, customers receiving services under existing contracts that were executed on or before September 15, 1994 and directory advertising. The CHCF-B surcharge has been in place since February 1, 1997.

To avoid double recovery of universal service support by carriers, the Commission, in D.96-10-066, requires Citizens and the other ILECs to reduce all of their rates, except for residential basic service³, contracts, and ULTS, by an equal percentage reduction (through a monthly surcredit to the customer's bill), in an amount that equals their anticipated monthly CHCF-B draws.

² The other ILECs are AT&T (formerly Pacific Bell, then SBC), Verizon California Inc. (formerly the merged GTE California Inc. and Contel Telephone Company), and SureWest Telephone Company (formerly Roseville Telephone Company).

³ Residential basic exchange service is excluded from the rate reduction because the CHCF-B supports this service in high cost areas. The Commission in D.96-10-066 held "If we were to reduce rates for basic service as well, this would widen, rather than narrow, the gap between residential rates and their costs." (*Id. at p. 208.*)

DRAFT

B. D.98-09-039 – Rulemaking on the Commission’s Own Motion into Universal Service and to Comply with the Mandates of Assembly bill 3643; Investigation on the Commission’s Own motion into Universal Service and to Comply with the Mandates of Assembly Bill 3643 (R.95-01-020, I.95-01-021.)

In September 1998, the Commission issued D.98-09-039 implementing the CHCF-B program established by D.96-10-066. Specifically, the Commission, in this decision, authorized Citizens and the other ILECs,⁴ to commence their monthly draws from their accumulated CHCF-B surcharge revenues (CHCF-B draws) commencing December 15, 1998. To offset the CHCF-B draws, the Commission ordered Citizens and the other ILECs to file an AL to implement a permanent surcredit (by an equal percentage of their CHCF-B draws) beginning on December 1, 1998, based on the average of the company’s monthly claims submitted to the CHCF-B fund for the twelve-month period ending July 31, 1998. (D. 98-09-039, *Ordering Paragraph (OP) 1*, p. 82.)

Lastly, the Commission in this decision ordered Citizens and the other ILECs to file an AL to implement a temporary CHCF-B catch-up surcredit over three calendar months in accordance with the instructions issued by the Director of the Telecommunications Division (TD). (D.98-09-039, *OP 20*, p. 84.)

C. Resolution T-16239 – Citizens Telecommunications Company of California. Request to Implement a Permanent California High Cost Fund –B Surcredit in Compliance with Decision 98-09-039. By Advice Letter No. 632, Filed on September 22, 1998 and Supplemental Advice Letter 632-A, Filed on November 12, 1998. (Adopted November 19, 1998.)

In compliance with OP No. 1 of D. 98-09-039, Citizens filed AL No. 632 to implement a permanent surcredit on intrastate billings to customers beginning December 1, 1998. In Resolution T –16239, the Commission approved, on a provisional basis, Citizens’ permanent surcredit of 3.07%, which was based on an estimated amount (approximately \$1.241 million) of Citizens’ 12-month CHCF-B claims from August 1997 through July 1998. This permanent surcredit was adopted on a provisional basis because the CHCF-B AC had not formally approved any of these claims filed by Citizens. (*Id. at p. 3.*) Accordingly, the Commission held that “ . . . the implementation of the permanent surcredit filed in Advice Letter 632 [is] to be on a provisional basis subject to further revision by further Commission action.” (*Id.*)

D. Resolution T-16532 –Citizens Telecommunications Company of California, Inc. Request to Implement a Temporary California High Cost Fund –B Catch-up Surcredit in Compliance with

⁴ AT&T, as a result of D.98-07-033, dated September 3, 1998, and subsequently SureWest Telephone Company, in D.05-08-004, dated August 25, 2005, implemented permanent rate reductions, which allowed the company to true up its rate reduction with its approved fund draws from the CHCF-B program.

DRAFT

Decision 98-09-039. Advice Letter No. 698, Filed on April 13, 2001. Supplements 698-A and 698-B Filed on May 18, 2002 and May 25, 2001, Respectively. (Adopted June 12, 2001.)

In Resolution T-16532, the Commission approved Citizens' temporary three-month CHCF-B catch-up surcredit of 20.20% to offset its approved claims of \$2.280 million for the period February 1997 through August 1998. The catch-up surcredit of 20.20% was applied to all intrastate services, except for residential basic service, contracts, and ULTS for three months, from July 1, 2001 through September 30, 2001. This catch-up surcredit was in addition to the 3.07% provisional permanent surcredit that was authorized in Resolution T-16239.

Additionally, the Commission ordered Citizens to do the following:

OP No. 4: Citizens shall track the catch-up surcredit rate reduction by establishing a memorandum account, entitled "Accounts Payable End-User Catch-Up Claim/Surcredit";

OP No. 5: Citizens shall file an AL within 60 days from the end of the catch-up period, no later than November 29, 2001, to true up the catch-up surcredit; and

OP No. 6: Citizens shall include interest, based upon the average seven-day compound yield on taxable money market funds published in the Wall Street Journal, starting on the first day from the end of the catch-up period, or October 1, 2001, to the day of the start of the actual true up, if any.⁷

In accordance with OP Nos. 4 and 5 of Resolution T-16532, Citizens tracked its temporary surcredit for three calendar months in a memorandum account, and filed AL No. 732 on November 29, 2001 to true-up the CHCF-B catch-up surcredit. Subsequently, Citizens filed supplements 732A, 732B, and 732C, filed December 10, 2001, August 1, 2002, and April 13, 2004, respectively.

In AL No. 732, Citizens requested to apply a one-month catch-up surcharge of 2.61% to recover an over payment to customers amounting to \$98,177 (including interest in accordance with OP No. 6 of Resolution T-16532). In AL No. 732A, Citizens included their Access Tariff, which was inadvertently left out when it filed AL No. 732. In AL No. 732B, Citizens adjusted its calculation for the true up from 2.61% to 2.12% one-month catch-up surcharge. Finally, in AL No. 732C, Citizens updated its one-month catch-up surcharge to 1.51% based on the projected billing base for July 2004 and an over payment of \$89,663 (per audit report), plus interest, pursuant to OP No. 6 of Resolution T-16532.

⁷ OP No. 6 of Resolution T-16532 was adopted from OP No. 25 of D.98-09-039.

DRAFT

E. October 4, 2001 Director of the Telecommunications Division's (TD) Letter to Citizens

On October 4, 2001, Director of TD sent a letter to Citizens to notify that the CHCF-B AC had completed its review of Citizens' monthly claims for the period February 1997 through July 1998. In the letter, TD informed Citizens that the CHCF-B AC approved an amount of \$1,475,781.31 for the 12-month period of August 1997 through July 1998. This amount was approximately \$235,000 more than Citizens' claimed amount of \$1.241 million for this period.

Because the CHCF-B AC's approved amount was greater than Citizens' claimed amount, TD instructed Citizens to adjust its provisional permanent rate that was adopted in Resolution T-16239 with the AC's approved amount of \$1,475,781.31. TD further instructed Citizens to file an AL no later than October 30, 2001 to reflect this true-up.

In response, Citizens filed AL No. 722 to true-up its provisional permanent surcredit of 3.07% to a new permanent surcredit of 3.66% on October 24, 2001. However, Citizens subsequently lowered its proposed permanent surcredit of 3.66% to 2.58% in AL No. 722A, on the basis that the rate should be based on its projected June 2004 billing base.

F. D.02-04-059 – Order Instituting Rulemaking into Implementation of Senate Bill 669 as it Affects California High Cost Fund B and Other Public Purpose Programs (R.01-08-022).

In D.02-04-059, the Commission adopted the 3-month commercial paper rate issued by financial institutions (available at the Federal Reserve Board website) as the uniform interest rate that would apply to all late payments for reimbursements and carrier claims, beginning with the payments processed in the first payment cycle, which was May 1, 2002.

G. Audit of Citizens' CHCF-B Claims Pursuant to Public Utilities (PU) Code Section 274

Public Utilities (PU) Code section 274 requires the Commission to conduct a compliance audit of program-related costs, including CHCF-B claims for all carriers. In compliance with this statute, the Commission retained an auditing firm in November 2001 to perform an audit of Citizens' CHCF-B claims for the period February 1, 1997 through December 31, 2000. A final audit report was issued in November 2002. Among other

DRAFT

findings, the audit report concluded that Citizens over claimed \$13,205 for the catch-up period of February 1997 through July 1998.⁸

NOTICE/PROTESTS

The notices of Citizens' AL No. 722 and 722A, were published in the Commission Daily Calendars of October 29, 2001 and April 19, 2004. Citizens' AL No. 732 and its Supplements A, B, and C were published in the Commission Daily Calendars of December 7, 2001, December 14, 2001, August 5, 2002, and April 19, 2004, respectively. Citizens indicated that they mailed a copy of the ALs to adjacent utilities and/or interested parties as requested. TD did not receive any protests to these ALs.

DISCUSSION

A. Citizens' Request to Make its Provisional Surcredit Permanent

In compliance with Resolution T-16239, OP No. 1, Citizens filed AL No. 722 and its supplements requesting to true-up its CHCF-B provisional permanent surcredit and to implement a permanent surcredit of 2.58% based on its projected June 2004 billing base.

To date, Citizens does not have a permanent surcredit for the CHCF-B. In Resolution T-16239, the Commission authorized Citizens to implement a "provisional" permanent surcredit and held that this issue would be subject to a revision in the future by further Commission action. (*Resolution T -16239, p. 3.*) In this resolution, we are now addressing this issue of what Citizens' permanent surcredit rate should be.

Citizens' proposes a permanent surcredit of 2.58% based on its projected June 2004 billing base. In D. 98-09-039, the Commission ordered Citizens to calculate its permanent surcredit by using the average of its 12-month claims from August 1997 through July 1998. Since the issuance of D. 98-09-039, there have been no other directives from the Commission on this matter. Accordingly, we cannot use Citizens' June 2004 billing base proposal because it does not comply with D.98-09-039. Rather, the net billing base for the 12-month period ending July 1998 (months for which the CHCF-B draws were made pursuant to D.98-09-039) is the proper base period to use and this is also consistent with Citizens' time period basis of their provisional permanent surcredit calculation.

⁸ The audit revealed that Citizens over claimed from the CHCF-B fund, totaling \$13,205 (or \$695 per month) during the 19-month audit period from 2/97 through 8/98 due to inclusion of lines with identical names and addresses, amounting to \$1,534, and incorrect Federal offset amounts, amounting to \$11,671.

DRAFT

Both the CHCF-B AC and the auditors have reviewed Citizens' August 1997 through July 1998 claims and have provided TD with their findings. The CHCF-B AC's approved amount for this period is \$1,475,718.31. The auditors have determined that Citizens over claimed \$8,340⁹ for this 12-month period. Based on these two amounts, (using \$1,475,718.31 and adjusting this amount by \$8,340), TD has calculated the permanent surcredit for Citizens to be 3.63%. Thus, TD recommends that Citizens implement a permanent surcredit of 3.63% commencing on September 1, 2006 and thereafter.

B. True up of Three-Month Temporary Catch-Up Surcredit

In compliance with Resolution T-16532, OP No. 5, Citizens filed AL No. 732 and its supplements, requesting to true up its three-month temporary catch-up surcredit relating to CHCF-B to recover the over payment to its customers, amounting to \$89,663, plus interest. Further, Citizens proposes to implement a one-month catch-up surcharge of 1.51% based on its projected July 2004 billing base to recover such over payment.

TD has calculated the one-month catch-up surcharge to be 1.94%, based on the audited over refunded amount of \$89,663 less audited over claimed amount of \$13,205 during February 1997 through August 1998 (basis period for the three-month temporary catch-up surcredit) plus interest and the projected net billing base for August 2006. The one-month catch-up surcharge of 1.94% will be applied on all intrastate billings, except for residential basic service, contract services, and ULTS, for one month commencing on September 1, 2006.

C. Application of Permanent Surcredit and One-Month Catch-Up Surcharge

The permanent surcredit of 3.63% should be applied to all intrastate billings, except for residential basic service, contract services, and ULTS, and should be implemented commencing on September 1, 2006 and thereafter.

The one-month catch-up surcharge of 1.94% should also be applied on all intrastate billings, except for residential basic service, contract services, and ULTS, and should be implemented for one month commencing on September 1, 2006.

D. TD's Recommendations on the Permanent Surcredit

⁹ Of the over claimed CHCF-B amount of \$13,205 from the CHCF-B fund by Citizens during the audit period 2/97 through 8/98, \$8,340 (\$695 per month x 12 months) of which relate to the period from 8/97 to 7/98 (basis period for provisional surcredit).

DRAFT

With respect to AL No. 722, TD recommends that the Commission order Citizens to do the following: (1) file a supplement to AL No. 722 within five (5) business days from the effective of this resolution to reflect a permanent surcredit of 3.63% to apply on all intrastate customers' billings, except residential basic service, contract services, and ULTS; and (2) provide to the Director of TD for review and approval, within five (5) business days from the effective date of this resolution, a copy of the customer notice that will be in the free-form section of the customer bill, explaining the changes relating to the permanent surcredit.

E. TD's Recommendation on True up of Catch-Up Surcredit

With respect to AL No. 732, the TD recommends that the Commission require Citizens to do the following: (1) file a supplement to AL No. 732 within five (5) business days from the effective of this resolution to reflect a one-month catch-up surcharge of 1.94% to apply on all intrastate customers' billings, except residential basic service, contract services, and ULTS; and (2) provide to the Director of TD for review and approval, within five (5) business days from the effective date of this resolution, a copy of the customer notice that will be in the free-form section of the customer bill, explaining the one-month catch-up surcharge.

F. Adoption of TD's Recommendations

In light of the above discussion, the Commission adopts TD's recommendations for the permanent surcredit of 3.63% and a one-month catch-up surcharge of 1.94% to true up the three-month temporary catch-up surcredit filings in AL Nos. 722 and 732, respectively. The Commission believes that TD's recommendations, as discussed in this resolution, are appropriate, reasonable and consistent with Commission decisions and resolutions.

G. Adjustment of Citizens' Provisional Permanent Surcredit

In addition to calculating Citizens' permanent surcredit, the Commission intends to adjust Citizens' provisional surcredit, which has been in effect since December 1, 1998 to the present date. This is necessary because the CHCF-B AC's approved amount is greater than Citizens' claimed amount, upon which the provisional permanent surcredit is based. In D.98-09-039, the Commission held that Citizens' permanent rate must be based on the "actual, approved" claim amount from August 1997 through July 1998. The Commission further held that if "material issues" arise from the CHCF-B AC's review of the monthly claims, the surcredit would be "implemented on a provisional basis beginning December 1, 1998, and adjusted at a later date, if necessary, upon resolution of these issues."

DRAFT

The CHCF-B AC's approved amount is approximately \$1.476 million whereas Citizen's claimed amount was \$1.241 million for the subject 12-month period. Consequently, the difference between these two amounts is approximately \$235,000. The net effect of this difference means that Citizens has been applying a smaller surcredit amount than it should have. The significant difference between the Committee's approved amount and Citizens' claimed amount to a "material issue" that merits adjustment. (Id. at COL 3; See also OP 3.) Thus, it is necessary to true-up the provisional permanent surcredit. Failure to adjust this difference would result in a significant harm to ratepayers and would also be inconsistent with the Commission decisions on how the CHCF-B funds are to be utilized and calculated. Therefore, the Commission may consider and order final approval and adjustments of Citizens' permanent surcredit in accordance with D.98-09-039 in the near future.

COMMENTS

In compliance with PU Code Section 311(g), a copy of the Notice of Availability letter of the draft resolution was e-mailed on June 20, 2006 to parties that informed TD of their e-mail address in order to continue to be on the service list of R.95-01-020/I.95-01-021, AT&T, Verizon California Inc., SureWest Telephone Company, Cox California Telecom, LLC, and CHCF-B AC, informing parties that this draft resolution is available for public viewing and comments at the Commission's website at: <http://www.cpuc.ca.gov/static/documents/index.htm>. In addition, the TD informed these parties of the availability of the conformed resolution at the same website.

On July 5, 2006, Citizens filed comments supporting this resolution and urged the Commission to adopt this resolution.

FINDINGS

1. Citizens Telecommunications Company of California (Citizens) filed Advice Letter (AL) No. 722 and its supplement to true up its California High Cost Fund B (CHCF-B) provisional permanent surcredit and implement a permanent surcredit.
2. For the subject twelve-month review period of August 1, 1997 through July 31, 1998, the CHCF-B Administrative Committee (AC)'s total approved CHCF-B claim amount for Citizens was \$1,475,781.31.
3. The audit of Citizens' CHCF-B claims concluded that Citizens over claimed a total amount of \$13,205 (or \$695 per month) from the CHCF-B fund during the 19-month

DRAFT

audit period from February 1997 through August 1998 due to inclusion of lines with identical names and addresses (\$1,534); and incorrect Federal offset amounts (\$11,671).

4. The appropriate billing base for Citizens' permanent CHCF-B surcredit calculation should be the net billing base for the twelve-month period ending July 1998 (months for which the CHCF-B draws were made), pursuant to Decision (D.) 98-09-039.
5. Citizens' approved CHCF-B claim amount of \$1,475,781.31 during the twelve-month period ending July 31, 1998 should be adjusted by the over claimed amount during that period, totaling \$8,340 (\$695 per month of over claimed amount x 12 months), as disclosed in the audit report, when computing the permanent surcredit.
6. The permanent CHCF-B surcredit calculation should be based on the net billing base and Citizens' approved CHCF-B claim amount (\$1,475,781.31) for the twelve-month period ending July 1998 less the over claimed amount of \$8,340 during that period, as disclosed in the audit report.
7. Citizens' permanent surcredit should be 3.63%, and should be implemented on September 1, 2006 and thereafter.
8. The significant difference between the Committee's approved amount and Citizens' claimed amount is a "material issue" that merits adjustment. In the near future, the Commission may consider and order final approval and adjustments of Citizens' permanent surcredit in accordance with D.98-09-039.
9. The interest is based on the average seven-day compound yield on taxable money market funds published in the Wall Street Journal each Thursday, per Ordering Paragraph (OP) No. 6 of Resolution T-16532 and OP No. 25 of Decision (D.) 98-09-039, was revised in D.02-04-059, issued April 22, 2002.
10. The Commission, in D.02-04-059, OP No. 7, adopted the three-month commercial paper rate issued by financial institutions (available at Federal Reserve Board website) as the uniform interest rate applicable to late payment of reimbursement and carrier claims, beginning with payments processed in the first payment cycle (which is May 1, 2002).
11. The basis of the one-month catch-up surcharge calculation is the audited over refunded amount of \$89,665 less the audited overclaimed amount of \$13,205 during February 1997 through August 1998 (basis period for the three-month temporary catch-up surcredit) and the projected net billing base for September 2006.

DRAFT

12. Within five (5) business days from the effective date of this resolution, Citizens should file a supplement to AL No. 722 to reflect a permanent surcredit of 3.63% on all intrastate billings, except for residential basic service, contract services, and Universal Lifeline Telephone Service (flat rate exchange service, reduced service connection charges, and mileage, if applicable) (ULTS), and should be implemented on September 1, 2006 and thereafter.
13. Within five (5) business days from the effective date of this resolution, Citizens should provide to the Director of the Telecommunications Division for review and approval, a copy of the customer notice, which will be in the free-form section of the customer bill, explaining the changes in the permanent surcredit.
14. Within five (5) business days from the effective date of this resolution, Citizens should file a supplement to AL No. 732 to reflect a one-month catch-up surcharge of 1.94%, commencing September 1, 2006 for one month, on all intrastate billings, except for residential basic service, contract services, and ULTS.
15. Within five (5) business days from the effective date of this resolution, Citizens should provide to the Director of the Telecommunications Division for review and approval, a copy of the customer notice, that will be in the free-form section of the customer bill, explaining the one-month catch-up surcharge of 1.94%.
16. TD's recommendations, as stated in this Resolution, are reasonable and should be adopted.
17. The Commission may consider in the near future a true-up of the permanent surcredit for the past seven years.
18. Citizens filed comments supporting this resolution and urged the Commission to adopt it.

THEREFORE, IT IS ORDERED that:

1. Within five (5) business days from the effective date of this resolution, Citizens Telecommunications Company of California (Citizens) shall file a supplement to Advice Letter (AL) No. 722 to reflect a permanent California High Cost Fund B (CHCF-B) surcredit of 3.63% to apply on all intrastate customers' billings, except residential basic service, contract services, and Universal Lifeline Telephone Service

DRAFT

(flat rate exchange service, reduced service connection charges, and mileage, if applicable) (ULTS).

2. Citizens shall implement the permanent surcredit of 3.63% on September 1, 2006 and thereafter.
3. Within five (5) business days from the effective date of this resolution, Citizens shall provide to the Director of the Telecommunications Division for review and approval, a copy of the customer notice, which will be in the free-form section of the customer bill, explaining the changes in the CHCF-B permanent surcredit.
4. Within five (5) business days from the effective date of this resolution, Citizens shall file a supplement to AL No. 732 to reflect a one-month catch-up surcharge of 1.94% to apply on all intrastate customers' billings, except residential basic service, contract services, and ULTS.
5. Citizens shall implement the one-month catch-up surcharge of 1.94% commencing on September 1, 2006 for one month.
6. Within five (5) business days from the effective date of this resolution, Citizens shall provide to the Director of the Telecommunications Division for review and approval, a copy of the customer notice, that will be in the free-form section of the customer bill, explaining the one-month catch-up surcharge.
7. In the near future, the Commission shall consider and order final approval and adjustments of Citizens' permanent surcredit in accordance with D.98-09-039.

DRAFT

This Resolution is effective today.

I hereby certify that this Resolution was adopted by the Public Utilities Commission at its regular meeting on July 20, 2006. The following Commissioners approved it:

STEVE LARSON
Executive Director